

From: ["Hamilton, Karen" </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP \(FYDIBOHF23SPDLT\)/CN=RECIPIENTS/CN=464B97BC84BE4DD582A98FA4C0ADA6CE-HAMILTON, KAREN>](#)  
To: [Perkins](#)  
[Erin](#)  
CC: ["Ott, Toney" <Ott.Toney@epa.gov>](#)  
Date: 8/27/2014 9:47:21 AM  
Subject: Climax Mine Section 404 Permitting Discussions - JD issue  
Attachments: [Climax Mine 1974 NPDES Permit.pdf](#)

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Hi Erin

Exemption 5 - Deliberative; attorney-client




Karen


-----Original Message-----

From: Ott, Toney  
Sent: Wednesday, August 27, 2014 9:13 AM  
To: Kwok, Rose; Christensen, Damaris; Flannery-Keith, Erin; Hamilton, Karen  
Subject: FW: EPA Contact for Climax Mine Section 404 Permitting Discussions  
Importance: High

(b) (5) (DP), (b) (5) (ACP)



(b) (5) (DP), (b) (5) (ACP)



Toney Ott  
Environmental Scientist  
US EPA, 8EPR-EP  
1595 Wynkoop Street  
Denver, CO 80202-1129  
303-312-6909  
ott.toney@epa.gov

-----Original Message-----

From: McWhirter, Lesley A SPK [mailto:Lesley.A.McWhirter@usace.army.mil]  
Sent: Wednesday, August 20, 2014 11:11 AM  
To: Ott, Toney  
Cc: Nall, Susan SPK; Finan, Michael C SPK; Holmes, Joshua R SPK  
Subject: FW: EPA Contact for Climax Mine Section 404 Permitting  
Importance: High

Toney,

Please see the email below from Ray Lazuk at Climax Mine. Would you please advise Ray regarding who at EPA the Mine can confer with regarding this JD, and let me know as well?

Thank you,  
Lesley

-----Original Message-----

From: Lazuk, Raymond [mailto:Raymond\_Lazuk@FMI.com]

Sent: Wednesday, August 20, 2014 11:01 AM

To: McWhirter, Lesley A SPK

Cc: Nall, Susan SPK; Finan, Michael C SPK; Holmes, Joshua R SPK; Deely, Sheila H.; Decker, D. Lee; 'Robert M. Andersen' (randersen@ClarkHill.com)

Subject: [EXTERNAL] EPA Contact for Climax Mine Section 404 Permitting

Lesley,

Thank you for the recent opportunity to discuss your preliminary conclusions and recommendations regarding the jurisdictional determination (JD) of the McNulty Gulch study area prior to submittal to EPA.

As you are aware, our position regarding the extent of the waste treatment system exemption as applied to the McNulty Gulch drainage area at the Climax Mine turns on language from the original NPDES permit that EPA Region 8 issued to Climax in 1974. That permit (p. 6 of 17 (Section (B)(1))) directly required construction , operation, and maintenance of the east and west interceptors at the mine to convey clean water around the mine site, allow impacted water within the mine site to be treated, and to ensure compliance with effluent limitations.

Because the 1974 NPDES permit issued by EPA establishes the scope and configuration of the waste treatment system for the Climax Mine, along with the fact that the application of the waste treatment exemption is largely defined by Section 402 of the Clean Water Act, we believe it is important that Climax discuss the appropriate application of the waste treatment system directly with EPA, as it has with the Corps. We would very much appreciate your advising us as to who you are specifically conferring with at EPA, and we would be grateful if you would pass along this message to them.

- Ray

Raymond Lazuk

Environmental Manager

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